

★ MAR 26 2012 ★

LONG ISLAND OFFICE

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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MARKEL AMERICAN INSURANCE COMPANY, as  
subrogee of Dennis Hall,

Plaintiff,

-against-

ANGELO GRIMALDI, JOSEPH SGRO, RICHARD  
STIEGLITZ, JEFFERY CROPPER, JAMES BUCK,  
ANTHONY PERRY, and CURTIS CROPPER,

Defendants.

-----X  
FEUERSTEIN, District Judge:

ORDER  
10-CV-5447(SJF)(GRB)

Pending before the Court is the Report and Recommendation ("the Report") of Magistrate Judge Gary R. Brown, dated February 10, 2012, recommending: (1) that the motion of plaintiff Markel American Insurance Company ("plaintiff") to amend the complaint be granted in part and denied in part; and (2) that the motion of defendant James Buck ("Buck") to dismiss the complaint pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure be denied as moot. No objections to the Report have been filed by any of the parties remaining in this action.<sup>1</sup> For the reasons stated herein, the Court accepts Magistrate Judge Brown's Report in its entirety.

#### I. Standard of Review

Any portion of a report and recommendation on dispositive matters, to which a timely objection has been made, is reviewed *de novo*. 28 U.S.C. § 636(b)(1); Fed.R.Civ.P. 72(b). The court, however, is not required to review the factual findings or legal conclusions of the magistrate judge as

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<sup>1</sup> Although Buck filed objections to the Report on February 24, 2012, by stipulation dated March 21, 2012: (1) plaintiff subsequently dismissed its claims, and defendant Joseph Sgro ("Sgro") dismissed his cross-claims, against Buck; and (2) Buck withdrew his objections to the Report. (Doc. No. 40). The Clerk of the Court is directed to terminate this action and Sgro's cross-claims as against Buck and to amend the docket accordingly.

to which no proper objections are interposed. See, Thomas v. Arn, 474 U.S. 140, 150, 106 S.Ct. 466, 88 L.Ed.2d 435 (1985). To accept the report and recommendation of a magistrate judge to which no timely objection has been made, the district judge need only be satisfied that there is no clear error on the face of the record. See, Fed. R. Civ. P. 72(b); Spence v. Superintendent, Great Meadow Correctional Facility, 219 F.3d 162, 174 (2d Cir. 2000) (a court may review a report to which no timely objection has been interposed to determine whether the magistrate judge committed “plain error.”); Johnson v. Goord, 487 F.Supp.2d 377, 379 (S.D.N.Y. 2007), aff’d, 305 Fed. Appx. 815 (2d Cir. 2009). Whether or not proper objections have been filed, the district judge may, after review, accept, reject, or modify any of the magistrate judge's findings or recommendations. 28 U.S.C. § 636(b)(1); Fed.R.Civ.P. 72(b).

## II. Review of Report

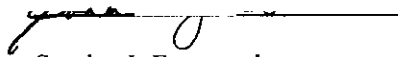
No party has filed any objection to Magistrate Judge Brown’s Report. Upon review, the Court is satisfied that the Report is not facially erroneous. Accordingly, the Court accepts Magistrate Judge Brown’s Report as an Order of the Court.

## III. Conclusion

For the reasons set forth therein, Magistrate Judge Brown’s Report is accepted in its entirety.

SO ORDERED.

s/ Sandra J. Feuerstein

  
Sandra J. Feuerstein  
United States District Judge

Dated: March 26, 2012  
Central Islip, New York